

No. 2023R01017
US v. Desmond Begay**23mr899**Telephonic Search Warrant
April 14, 2023Mitchell R. Elfers
Clerk of Court

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW MEXICO3 UNITED STATES OF AMERICA,
4 Plaintiff,
5 vs. No. 2023R01017
6 DESMOND BEGAY,
7 Defendant.
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13 TELEPHONIC SEARCH WARRANT
14 April 14, 2023
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1617 PARTIES ON TELEPHONE CALL:
18 FEDERAL MAGISTRATE JUDGE B. PAUL BRIONES
19 SPECIAL AGENT MARK SPENCER
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1 THE COURT: It is April the 14th, 2023.
2 I am Federal Magistrate Judge in the District of
3 New Mexico B. Paul Briones. I am on a telephone call
4 with an FBI agent.
5 Would you please state your name for the
6 record?
7 FBI SA SPENCER: Special Agent Mark Spencer.
8 THE COURT: Agent Spencer, I understand that
9 you are seeking an emergency oral warrant for search
10 warrants today; is that correct?11 FBI SA SPENCER: Yes, sir.
12 THE COURT: What crimes are you
13 investigating, please?14 FBI SA SPENCER: The crimes that I am
15 looking at today are 18 USC 1153, offenses committed
16 within Indian Country and 18 USC 1112, involuntary
17 manslaughter.18 THE COURT: All right. I'm going to ask you
19 to raise your right hand.20 Do you swear or affirm the statements that you
21 are going to provide will be true and correct to the
22 best of your knowledge?

23 FBI SA SPENCER: Yes.

24 THE COURT: All right. You may put your
25 hand down.

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1 I'll ask you to please tell me the factual
2 basis that you believe establishes probable cause for
3 these search warrants. You may begin.
4 FBI SA SPENCER: Yes, sir. Today at
5 approximately 12:36 this afternoon, the Navajo Police
6 Department received an emergency call about a vehicle
7 accident that took place at mile marker 2 and a half on
8 Route 11 in Pinedale, New Mexico, which is within the
9 exterior boundaries of the Navajo reservation.
10 The three vehicles that were involved: The
11 first vehicle was a 2019 Dodge Grand Caravan, New
12 Mexico plate 224WZD. The VIN was 2C4RDGEQ4KR764985.
13 The second vehicle, the subject vehicle, was a
14 2018 silver Chevy Malibu, New Mexico plate RBX654, the
15 VIN 1G1ZB5ST4JF228466.
16 The third vehicle is a 2007 gray Toyota Tundra,
17 California plate 66261Z1, VIN 5TBDV54157S483097.
18 The circumstances: The Dodge Grand Caravan was
19 being followed by the Chevy Malibu. The Chevy -- the
20 Dodge Grand Caravan was struck from behind by the Chevy
21 Malibu, causing the Chevy Malibu to go sideways into
22 oncoming traffic. The oncoming traffic was a gray
23 Toyota Tundra. That Tundra struck that middle vehicle.
24 As emergency personnel responded, there were two
25 that were declared deceased on scene, a Jane Doe and a

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1 John Doe. The John Doe was a juvenile.
2 The middle vehicle that was struck also had
3 four other juveniles within the vehicle. All were
4 transported to Gallup Medical Indian -- GIMC, the --
5 the Indian Hospital there in Gallup.
6 The driver of the subject vehicle was Desmond
7 Begay with a year of birth of '02. He had two
8 passengers with him that were also transported to GIMC.
9 The 2017 gray Toyota Tundra had one driver who was
10 transported to GIMC, as well.
11 So as I said, sir, two deceased on scene.
12 THE COURT: All right. Well, I find, by
13 those facts, probable cause sufficient that there may
14 have been the crime of involuntary manslaughter
15 occurring within Indian Country as that is defined.
16 Tell me what it is you're wanting to search,
17 please.
18 FBI SA SPENCER: Yes, sir. The three
19 vehicles I would like to search and get the event data
20 records, the EDR box, for each three of those vehicles.
21 The subject vehicle, Desmond Begay made a
22 statement to responding fire department personnel that
23 he had been drinking.
24 So I would also like to search for alcoholic
25 containers and also any drug paraphernalia that may

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<p style="text-align: right;">Page 5</p> <p>1 exist within that subject vehicle.</p> <p>2 The exigency that I am requesting for these is</p> <p>3 due to the rural location. Traffic is completely</p> <p>4 stopped. This is a road that -- this is the only way</p> <p>5 that many people can get to and from home. And so that</p> <p>6 is the exigency behind getting this oral warrant, sir.</p> <p>7 THE COURT: All right. Well, I find that</p> <p>8 the exigency is sufficiently stated. I'll note also</p> <p>9 that the fact that the blood draw is also time</p> <p>10 sensitive.</p> <p>11 As a result, I find, as I said, probable cause</p> <p>12 that based on those statements and what you're seeking</p> <p>13 to search is reasonably related to the probable cause</p> <p>14 statement that you've given.</p> <p>15 I'm going to instruct you to prepare, if you</p> <p>16 haven't already, four separate search warrants, one for</p> <p>17 each vehicle.</p> <p>18 The subject vehicle with the driver who</p> <p>19 admitted to the alcohol use, you may include in that</p> <p>20 search warrant not just the data recorder but also for</p> <p>21 information, as you indicated, that may relate and be</p> <p>22 evidence of alcohol and/or other drug use and</p> <p>23 consumption.</p> <p>24 And then the fourth search warrant would be for</p> <p>25 the authorization for you to take a blood draw from</p>	<p style="text-align: right;">Page 7</p> <p>1 THE COURT: All right. Thank you very much.</p> <p>2 We'll go ahead and let you turn off the recorder at</p> <p>3 this time.</p> <p>4 [End of call.]</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 6</p> <p>1 this Desmond Begay, year of birth, I think you said,</p> <p>2 2002.</p> <p>3 I will instruct you to fill out those search</p> <p>4 warrants as I just stated, and then you may put my name</p> <p>5 as B as in boy, Brian -- Paul Briones -- B. Paul</p> <p>6 Briones. You may say, "Signed at the direction of</p> <p>7 Judge Briones," and sign the name for me.</p> <p>8 I'm going to direct that you have this -- once</p> <p>9 those are completed at your earliest, send them to me</p> <p>10 for review, even by photo, and email them to me. But</p> <p>11 then submit those to the Court for a cause number to be</p> <p>12 issued at the earliest convenience, so tomorrow.</p> <p>13 Finally, I'll direct that you take the</p> <p>14 transcript of this tape recording -- or the tape</p> <p>15 recorder and have it transcribed and attach a</p> <p>16 transcription to each of the search warrant</p> <p>17 applications that you're filling out and then submit to</p> <p>18 me the search warrants, the application, and the</p> <p>19 transcribed tape recording for my review. And you will</p> <p>20 also need to review it.</p> <p>21 Do you need any further instruction from me,</p> <p>22 Agent Spencer?</p> <p>23 FBI SA SPENCER: No, sir. I will get these</p> <p>24 filled out and get them over to you as soon as</p> <p>25 possible.</p>	<p style="text-align: right;">Page 8</p> <p>1 REPORTER'S CERTIFICATE</p> <p>2 I, Jenifer L. Russin, CCR #182, a Certified</p> <p>3 Court Reporter, do hereby certify that the proceedings</p> <p>4 of the above-entitled cause were transcribed by me</p> <p>5 stenographically, and that the within transcript is a</p> <p>6 true and accurate transcription of my shorthand notes.</p> <p>7 I FURTHER CERTIFY that I am neither an attorney</p> <p>8 nor counsel for, nor related to or employed by any of</p> <p>9 the parties to the action, and that I am not a relative</p> <p>10 or employee of any attorney or counsel employed by the</p> <p>11 parties hereto, or financially interested in the</p> <p>12 action.</p> <p>13</p> <p>14 </p> <p>15</p> <p>16 Jenifer L. Russin, RDR, CRR</p> <p>17 Certified Court Reporter #182</p> <p>18 License Expires: 12/31/2023</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>